

AMENDED IN SENATE APRIL 14, 2011
AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 819

Introduced by Senator Leno

February 18, 2011

An act to amend Section 28225 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 819, as amended, Leno. Firearms.

Existing law authorizes the Department of Justice to require a firearms dealer to charge each firearm purchaser a fee, as specified, to fund various specified costs in connection with, among other things, a background check of the purchaser, and to fund the costs associated with the department's firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms. *The bill would make related legislative findings and declarations.*

This bill would also authorize using those charges to fund the department's firearms-related regulatory and enforcement activities related to the possession of firearms, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *The Legislature finds and declares all of the*
2 *following:*

1 (a) California is the first and only state in the nation to establish
2 an automated system for tracking handgun and assault weapon
3 owners who might fall into a prohibited status.

4 (b) The California Department of Justice (DOJ) is required to
5 maintain an online database, which is currently known as the
6 Armed Prohibited Persons System, otherwise known as APPS,
7 which cross-references all handgun and assault weapon owners
8 across the state against criminal history records to determine
9 persons who have been, or will become, prohibited from possessing
10 a firearm subsequent to the legal acquisition or registration of a
11 firearm or assault weapon.

12 (c) The DOJ is further required to provide authorized law
13 enforcement agencies with inquiry capabilities and investigative
14 assistance to determine the prohibition status of a person of
15 interest.

16 (d) Each day, the list of armed prohibited persons in California
17 grows by about 15 to 20 people. There are currently more than
18 18,000 armed prohibited persons in California. Collectively, these
19 individuals are believed to be in possession of over 34,000
20 handguns and 1,590 assault weapons. The illegal possession of
21 these firearms presents a substantial danger to public safety.

22 (e) Neither the DOJ nor local law enforcement has sufficient
23 resources to confiscate the enormous backlog of weapons, nor can
24 they keep up with the daily influx of newly prohibited persons.

25 (f) A Dealer Record of Sale fee is imposed upon every sale or
26 transfer of a firearm by a dealer in California. Existing law
27 authorizes the DOJ to utilize these funds for firearms-related
28 regulatory and enforcement activities related to the sale, purchase,
29 loan, or transfer of firearms pursuant to any provision listed in
30 Section 16580 of the Penal Code, but not expressly for the
31 enforcement activities related to possession.

32 (g) Rather than placing an additional burden on the taxpayers
33 of California to fund enhanced enforcement of the existing armed
34 prohibited persons program, it is the intent of the Legislature in
35 enacting this measure to allow the DOJ to utilize the Dealer Record
36 of Sale Account for the additional, limited purpose of funding
37 enforcement of the Armed Prohibited Persons System.

38 **SECTION 1.**

39 **SEC. 2.** Section 28225 of the Penal Code is amended to read:

1 28225. (a) The Department of Justice may require the dealer
2 to charge each firearm purchaser a fee not to exceed fourteen
3 dollars (\$14), except that the fee may be increased at a rate not to
4 exceed any increase in the California Consumer Price Index as
5 compiled and reported by the Department of Industrial Relations.

6 (b) The fee under subdivision (a) shall be no more than is
7 necessary to fund the following:

8 (1) The department for the cost of furnishing this information.

9 (2) The department for the cost of meeting its obligations under
10 paragraph (2) of subdivision (b) of Section 8100 of the Welfare
11 and Institutions Code.

12 (3) Local mental health facilities for state-mandated local costs
13 resulting from the reporting requirements imposed by Section 8103
14 of the Welfare and Institutions Code.

15 (4) The State Department of Mental Health for the costs resulting
16 from the requirements imposed by Section 8104 of the Welfare
17 and Institutions Code.

18 (5) Local mental hospitals, sanitariums, and institutions for
19 state-mandated local costs resulting from the reporting
20 requirements imposed by Section 8105 of the Welfare and
21 Institutions Code.

22 (6) Local law enforcement agencies for state-mandated local
23 costs resulting from the notification requirements set forth in
24 subdivision (a) of Section 6385 of the Family Code.

25 (7) Local law enforcement agencies for state-mandated local
26 costs resulting from the notification requirements set forth in
27 subdivision (c) of Section 8105 of the Welfare and Institutions
28 Code.

29 (8) For the actual costs associated with the electronic or
30 telephonic transfer of information pursuant to Section 28215.

31 (9) The Department of Food and Agriculture for the costs
32 resulting from the notification provisions set forth in Section 5343.5
33 of the Food and Agricultural Code.

34 (10) The department for the costs associated with subdivisions
35 (d) and (e) of Section 27560.

36 (11) The department for the costs associated with funding
37 Department of Justice firearms-related regulatory and enforcement
38 activities related to the sale, purchase, possession, loan, or transfer
39 of firearms pursuant to any provision listed in Section 16580.

(c) The fee established pursuant to this section shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (3) of subdivision (b), the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (4) of subdivision (b), the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (5) of subdivision (b), the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (7) of subdivision (b), the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, the estimated reasonable costs of the department for the costs associated with subdivisions (d) and (e) of Section 27560, and the estimated reasonable costs of department firearms-related regulatory and enforcement activities related to the sale, purchase, possession, loan, or transfer of firearms pursuant to any provision listed in Section 16580.

(d) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in this section to the department.